

App. No. 09/354,870
Examiner Fischetti
Art Unit 3627

REMARKS

Status of the Claims

Withdrawn - Claims 1-10

Currently Amended - Claim 11

Previously Presented - Claims 12, 15, 17, 18, 20, and 21

Cancelled - Claims 13, 14, 16, and 19

Claim Rejections Under 35 U.S.C. § 103

Claims 11, 12, 17, and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Longfield '523 in view of DiCresce. It is the Examiner's position Longfield teaches the present invention except for accepting from the taxpayer an assignment of a portion of an income tax refund amount to a third party spending vehicle provider and the third party spending vehicle provider's acceptance of the assignment in exchange for a spending vehicle. Applicant has amended independent claim 11 to indicate more clearly that the assignment of a portion of the tax refund accepted by the spending vehicle provider in exchange for the spending vehicle comprises a risk for non-payment that is also accepted by the spending vehicle provider. In view of Applicant's amended claims, Applicant respectfully traverses the rejections.

Longfield teaches the use of an income tax refund as collateral for a loan or a secured credit card. Regardless of whether the taxpayer accepts a loan or secured credit card, the taxpayer is must complete a loan application and must retain the risk for

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non-payment of the refund or non-payment of the full amount of the anticipated refund. The tax refund is used only for collateral and in the event of a default, the taxpayer remains liable to the creditor.

Like Longfield, DiCrese teaches loans and collateral to secure loans. In DiCrese, a collateral assignment of an insurance policy is used to secure a loan for the purchase of investments such as stocks and bonds. Specifically, DiCrese states in Col. 4, lines 59-60 "... the life insurance contract is assigned to a financial institution as *collateral in return for the loans.*" [Emphasis added]. In a collateral assignment of an insurance policy, the creditor has a right only to the portion of the policy's proceeds equal to the creditor's remaining interest in the loan and the creditor collects the proceeds if the debtor defaults on the loan. The debtor remains liable for the amount of the loan. DiCrese teaches a different type of collateral to secure a loan than disclosed in Longfield but adds nothing to the teachings of Longfield. DiCrese does not overcome the deficiency of Longfield with respect to an assignment of a right to receive money (a portion of an income tax refund amount) to a third party (spending vehicle provider) which the third party (spending vehicle provider) accepts the risk for non-payment, and therefore, cannot be combined with Longfield to reject amended claim 11.

In contrast to the collateral assignment of DiCrese which is used to secure a loan, the present invention comprises an assignment in which the transfer is complete or absolute and leaves the assigning party (the taxpayer) with no interest in the property or right transferred (the tax refund). The taxpayer transfers to the spending vehicle provider the right to receive the tax refund and the spending vehicle provider accepts the transfer of the right and the associated risk of non-payment. In exchange, the

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spending vehicle provider issues a spending vehicle to the taxpayer. The transaction is then complete. Once the transaction is complete, the spending vehicle provider is entitled to receive only the amount of the tax refund. If the refund amount is reduced or never paid, it is the spending vehicle provider that accepts the risk. The tax refund is not used as collateral for a loan and the spending vehicle provider is not permitted to collect other proceeds from the taxpayer if the tax refund is not paid.

The use of a complete or absolute assignment rather than a loan agreement or any other type of agreement which requires use of the income tax refund as collateral results in significant benefits for taxpayers and providers of spending vehicles. First, taxpayers are not required to take out a loan and remain liable for repayment of the loan. The liability for non-payment of the tax refund or non-payment of the full amount of the tax refund is shifted to the spending vehicle provider when the assignment is executed. In addition, spending vehicle providers such as retailers, wholesalers, and distributors that are not in the business of granting loans to consumers can participate in the system and method of the present invention by simply agreeing to accept a tax refund in exchange for a spending vehicle. Spending vehicle providers may accept the risk of non-payment in return for the opportunity to distribute their products and services to a larger customer base. Many of the recipients of the spending vehicles may become repeat customers for the providers thereby benefiting the spending vehicle providers with additional business.

The Examiner has further rejected claims 11, 15, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Longfield and DiCrese in view of Credit Card News. Applicant respectfully submits that for the reasons cited above, the DiCrese reference

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does not overcome the deficiency of the Longfield reference and therefore, cannot be combined with Longfield and Credit Card News to support the present rejections.

Conclusion

The present invention allows entities such as retailers, wholesalers, distributors, etc. to offer spending vehicles to taxpayers in exchange for a complete or absolute assignment of the taxpayers' tax refunds. Spending vehicle providers that participate in the process of the present invention benefit from the increased revenue and opportunity to offer products or services to more taxpayers. They also have an opportunity to compete for taxpayer refunds by offering spending vehicles that exceed the value of the taxpayers' refunds. Taxpayers, in turn, benefit from increased spending power.

Applicant respectfully submits that the present application is now in condition for allowance and respectfully requests such action.

Respectfully submitted,

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